

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

CASE NO. 1:05-CR-18

v.

HON. ROBERT HOLMES BELL

ROBERT CHARLES WILLIS,

Defendant.

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**MEMORANDUM OPINION AND ORDER**

This Court has spent a considerable amount of time resolving motions filed by the defendant since his sentencing in 2006. The Court will attempt to summarize the docket activity as follows:

Defendant was sentenced on June 13, 2006 to a term of custody of 224 months followed by 6 years of supervised release after being found guilty of 3 counts of a Second Superseding Indictment charging Distribution of an Unspecified Quantity of a Mixture or Substance Containing a Detectable Amount of Cocaine Base (Crack Cocaine), Distribution of an Unspecified Quantity of a Mixture or Substance Containing a Detectable Amount of Cocaine Base (Crack Cocaine) Within 1,000 Feet of a School or Playground, and Felon in Possession of a Firearm. Defendant filed a notice of appeal on June 14, 2006. Defendant's conviction and sentence were affirmed.

On September 25, 2006, the Defendant filed a motion for review of sentence (ECF

No. 193). On October 5, 2006, the Court issued an Order finding it inappropriate to consider Defendant's motion as the case was on appeal (ECF No. 196).

On January 24, 2007, the Defendant filed a motion for new trial (ECF No. 198). On January 29, 2007, the Court denied the Defendant's motion as the case was still on appeal (ECF No. 199). Defendant appealed.

On March 5, 2007, the Defendant once again filed a motion for new trial, and a motion for bail (ECF Nos. 202 and 203). On June 5, 2007, the Court denied the Defendant's motions (ECF No. 208). Defendant appealed.

On June 11, 2007, the Sixth Circuit Court of Appeals remanded the matter to the District Court for consideration of documents the Defendant tendered in the District Court seeking to appeal the order denying his motion for new trial for a determination as to whether the February 9, 2007, document (ECF No. 214) should be filed as a notice of appeal, or if an extension of time should be granted for the March 5, 2007 notice of appeal. On July 10, 2007, this Court issued an Order stating the Defendant's notice of appeal filed March 5, 2007, was effective as of June 5, 2007.

On September 27, 2007, the Defendant filed a motion for reduction of sentence (ECF No. 213). On December 3, 2007, the Court issued a Memorandum Opinion and Order denying Defendant's motion to reduce sentence pursuant to 18 U.S.C. § 3582(c)(2) (ECF No. 215). Defendant filed a notice of appeal (ECF No. 221).

On March 13, 2008, the Defendant filed a motion for resentencing as to the

intervening change in crack cocaine and criminal history guidelines (ECF No. 216). On March 14, 2008, the Court issued an order directing Defendant to submit his motion for modification of sentence on the court-approved form within 30 days of the date of the order. Defendant did not do so.

On July 24, 2008, the Sixth Circuit Court of Appeals affirmed this Court's order denying Defendant's motion for new trial (ECF No. 229).

On October 6, 2008, Defendant filed another motion for modification of sentence (ECF No. 231). On December 29, 2008, Defendant filed a motion for new trial (ECF No. 232).

On March 17, 2009, the Court dismissed without prejudice Defendant's March 13, 2008 motion for resentencing as to the intervening change in crack cocaine and criminal history guidelines (ECF No. 216) as Defendant failed to submit the motion on the court-approved form (ECF No. 233). Defendant appealed (ECF No. 234).

On April 3, 2009, the Court denied Defendant's October 6, 2008 motion to reduce sentence and his December 29, 2008 motion for new trial (ECF No. 235). Defendant appealed (ECF No. 236).

On November 23, 2009, Defendant filed a 2255 motion in case number 1:09-CV-1068. The motion was denied.

On April 2, 2010, the Defendant filed a motion to dismiss counts of the Indictment for lack of jurisdiction (ECF No. 244). On November 5, 2010, the Court denied

defendant's motion (ECF No. 267).

On June 16, 2010, the Defendant filed a motion for modification of his sentence pursuant to 18 U.S.C. § 3582(c)(2), 18 U.S.C. § 3553(a), U.S.S.G. § 1B11.10(a), and U.S.S.G. 2D1.1. (ECF No. 251). On November 5, 2010, the Court issued an Opinion denying the motion to the extent it was based on Amendments 433 and 484 of the Sentencing Guidelines, and holding in abeyance the motion to the extent the motion was based on Amendments 706 and 711 of the Sentencing Guidelines to give the Defendant yet another opportunity to file the motion on the court-approved form within 30 days (ECF No. 268). The Defendant did not do so.

On July 22, 2010, the Defendant filed what the Court deemed to be a motion pursuant to Fed. R. Crim. P. 48(a). (ECF No. 254). On November 5, 2010, the Court issued an Opinion denying Defendant's motion (ECF No. 269). Defendant appealed (ECF No. 277).

On May 7, 2012, Defendant filed a motion for modification (ECF No. 304). Defendant did not file the motion on the proper form, so the Court again ordered Defendant to file same on the court-approved form (ECF No. 307). Defendant finally did so on August 16, 2012 (ECF No. 308).

Pending before the Court is Defendant's Motion for Modification or Reduction of Sentence (ECF No. 308). The Probation Department's Report of Eligibility (ECF No. 318) indicated the Defendant appeared to be ineligible for consideration of a modification

of sentence based upon the application of the Career Offender and Armed Career Offender guidelines. Based on a review of the Defendant's motion and the original criminal file, the Court has determined that the motion should be denied as follows:

As stated above, Defendant was sentenced on June 13, 2006, to a term of custody of 224 months after having been found guilty of Distribution of an Unspecified Quantity of a Mixture or Substance Containing a Detectable Amount of Cocaine Base (Crack Cocaine), Distribution of an Unspecified Quantity of a Mixture or Substance Containing a Detectable Amount of Cocaine Base (Crack Cocaine) Within 1,000 Feet of a School or Playground, and Felon in Possession of a Firearm. Defendant was sentenced as a career offender within the meaning of U.S.S.G. § 4B1.1(a). As such, defendant is ineligible for a reduction in sentence. Accordingly,

Defendant's Motion for Modification or Reduction of Sentence (ECF No. 308) is **DENIED**.

Defendant's Motion to Appoint Counsel (ECF No. 276), Motion for Evidentiary Hearing (ECF No. 283), Motion for Order to Show Cause (ECF No. 286), Motion for Evidentiary Hearing (ECF No. 290), Motion to Amend/Correct (ECF No. 304), Motion for New Trial (ECF No. 309), Motion regarding Technical Difficulties (ECF No. 310), Motion to Modify (ECF No. 312), Motion to Expedite (ECF No. 313), Motion for New Trial (ECF No. 325), Motion to Inspect Documents (ECF No. 328), and Motion for New Trial (ECF No. 329) are **DENIED AS MOOT**.

Date: January 14, 2015

/s/ Robert Holmes Bell  
ROBERT HOLMES BELL  
UNITED STATES DISTRICT JUDGE